

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE AVERN COHN

v.

No. 05-80955-2

DEMETRIUS EDWARD FLENORY (2),

Defendant.

/

PLEA HEARING

Monday, November 19, 2007

Appearances:

Michael C. Leibson  
Dawn N. Ison  
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On behalf of Plaintiff

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On behalf of Defendant

- - -  
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Proceedings recorded by mechanical stenography.  
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1 Detroit, Michigan

2 Monday, November 19, 2007

3 2:08 p.m.

4 - - -

5 **THE CLERK:** Now calling Case Number 05-80955,  
6 *United States of America v. Demetrius Flenory*, Defendant  
7 Number 2. Will counsel please identify themselves for the  
8 record.

9 **MS. ISON:** For the record, Your Honor, Dawn Ison  
10 for the government and Michael Leibson.

11 **MR. FEINBERG:** James L. Feinberg, Drew Findling,  
12 and Alixe Steinmetz for Mr. Flenory, and Mr. Flenory is to  
13 my left.

14 **THE COURT:** I recognize him by the color of his  
15 clothing.

16 You are Demetrius Flenory?

17 **THE DEFENDANT:** Yes.

18 **THE COURT:** You are the person named in the  
19 indictment returned October 20, 2005?

20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** And you are here to plead guilty to  
22 Counts 3 and 10?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** Before accepting your plea I have a  
25 number of questions to ask to be sure it's a good plea and

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1 you know what you are doing. If you don't understand a  
2 question, say so. If you want to talk to your lawyer, say  
3 so.

4 Swear the defendant.

5 **THE CLERK:** Raise your right hand.

6 - - -

7 **DEMETRIUS FLENORY,**

8 being first duly sworn by the deputy clerk to  
9 tell the truth, was examined and testified  
10 upon his oath as follows:

11 **THE COURT:** Do you understand if you don't answer  
12 a question truthfully you can be charged with perjury?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** How old are you, sir?

15 **THE DEFENDANT:** 39.

16 **THE COURT:** How far did you go in school?

17 **THE DEFENDANT:** 10th grade.

18 **THE COURT:** Have you ever been under a doctor's  
19 care or in a hospital for drug addiction?

20 **THE DEFENDANT:** No.

21 **THE COURT:** Have you had any drugs or medicine or  
22 anything to drink in the last 24 hours?

23 **THE DEFENDANT:** No. Well, I had an acid reflux  
24 pill.

25 **THE COURT:** Okay. Do you have a lawyer?

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1                   **THE DEFENDANT:** No. A wire, what?

2                   **THE COURT:** A lawyer.

3                   **THE DEFENDANT:** Yes.

4                   **THE COURT:** You have a lawyer, right? Right?

5                   **THE DEFENDANT:** I have a lawyer, yes.

6                   **THE COURT:** Okay. Have you had a chance to talk  
7 to your lawyers?

8                   **THE DEFENDANT:** Yes.

9                   **THE COURT:** And you are satisfied with them?

10                  **THE DEFENDANT:** Yes.

11                  **THE COURT:** You understand that under our  
12 Constitution and laws you are entitled to a jury trial on  
13 the charges against you?

14                  **THE DEFENDANT:** Yes.

15                  **THE COURT:** You understand if there was a trial  
16 you would be presumed innocent, the government would have to  
17 overcome the presumption, prove you guilty by competent  
18 evidence beyond a reasonable doubt, and you would not have  
19 to prove you were innocent?

20                  **THE DEFENDANT:** Yes.

21                  **THE COURT:** Do you understand if there was a trial  
22 witnesses for the government would have to come in the  
23 courtroom and testify in front of you, your lawyer could  
24 cross-examine the witnesses, object to the evidence offered  
25 by the government, and offer evidence on your behalf?

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1                   **THE DEFENDANT:** Yes.

2                   **THE COURT:** You understand if there was a trial  
3                   you would have the right to use subpoenas to force the  
4                   attendance of witnesses whether they wanted to come into the  
5                   courtroom or not?

6                   **THE DEFENDANT:** Yes.

7                   **THE COURT:** You understand if there was a trial  
8                   you would have the right to testify if you wanted to, you  
9                   would have the right not to testify, and no inference or  
10                  suggestion of guilt could be drawn from the fact that you  
11                  did not testify?

12                  **THE DEFENDANT:** Yes.

13                  **THE COURT:** You understand if you plead guilty and  
14                  I accept your plea you waive your right to a trial and all  
15                  of the other rights I have described, there is not going to  
16                  be a trial, and I will simply enter a judgment of guilty and  
17                  sentence you on the basis of your guilty plea?

18                  **THE DEFENDANT:** Yes.

19                  **THE COURT:** If you plead guilty you also  
20                  understand you waive your right not to incriminate yourself  
21                  since I may ask you questions about what you did to satisfy  
22                  myself that you are guilty and you will have to acknowledge  
23                  the fact that you are guilty?

24                  **THE DEFENDANT:** Yes.

25                  **THE COURT:** Considering all that I have said, are

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1 you willing to give up all of these rights and plead guilty?

2           **THE DEFENDANT:** Yes.

3           **THE COURT:** Have you read the indictment?

4           **THE DEFENDANT:** Yes.

5           **THE COURT:** Have you discussed with your lawyer  
6 the charges, particularly Counts 3 and 10 which you intend  
7 to plead guilty to?

8           **THE DEFENDANT:** Yes.

9           **THE COURT:** In Count 3 the offense is continuing  
10 criminal enterprise. Do you know what the maximum  
11 punishment under law is for that?

12          **THE DEFENDANT:** Yes, life.

13          **THE COURT:** Count 10 is money laundering. Do you  
14 know what the maximum punishment under the law is for that?

15          **THE DEFENDANT:** I think 20.

16          **THE COURT:** That's right. Has anyone threatened  
17 you or forced you to plead guilty?

18          **THE DEFENDANT:** No, sir.

19          **THE COURT:** There has been a plea agreement --

20          **MS. ISON:** On the CCE, Your Honor, there is a  
21 mandatory minimum as well.

22          **THE COURT:** Okay. Well, all I asked him is if he  
23 understands the maximum under the law.

24          There has been a plea agreement between you and  
25 the government, right?

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1           **THE DEFENDANT:** Yes.

2           **THE COURT:** What's your understanding of the  
3 agreement?

4           **THE DEFENDANT:** That I won't be enhanced.

5           **THE COURT:** Pardon?

6           **THE DEFENDANT:** That I couldn't be --

7           **THE COURT:** Well, first of all, what's the  
8 sentencing range?

9           **THE DEFENDANT:** 30 to life.

10          **THE COURT:** And that's on the basis of guidelines?

11          **THE DEFENDANT:** Right.

12          **THE COURT:** That's a recommended?

13          **THE DEFENDANT:** Right.

14          **THE COURT:** And that takes into account your  
15 criminal history and the nature of your offenses?

16          **THE DEFENDANT:** Right.

17          **THE COURT:** And there's a minimum, right?

18          **THE DEFENDANT:** 30.

19          **THE COURT:** 20 years, right?

20          **MS. ISON:** That's by statute, Your Honor.

21          **THE COURT:** By law, but there's also a provision  
22 in the agreement, isn't there, that I can't --

23          **MR. FEINBERG:** No, the agreement is that the  
24 guidelines are 30 to life, but --

25          **THE COURT:** Let me do it.

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1                   **MR. FEINBERG:** Okay. I'm sorry.

2                   **THE COURT:** You know, that's why I took the job.

3                   However, the Court must impose a sentence of  
4 imprisonment on Count 3 of at least 20 years.

5                   **MR. FEINBERG:** Yes.

6                   **THE COURT:** That's a provision of the agreement,  
7 right?

8                   **MR. FEINBERG:** Yes.

9                   **THE DEFENDANT:** On both counts.

10                  **THE COURT:** Well, I understand, but there is a  
11 provision that I have to give you at least 20 years?

12                  **THE DEFENDANT:** Right.

13                  **THE COURT:** And if I don't the government can  
14 withdraw from this deal?

15                  **THE DEFENDANT:** Right.

16                  **THE COURT:** Okay. When you go to prison after you  
17 get out there's a period of supervised release?

18                  **THE DEFENDANT:** Yes.

19                  **THE COURT:** Right?

20                  **THE DEFENDANT:** Yes.

21                  **THE COURT:** There is also a \$200 special  
22 assessment, right?

23                  **THE DEFENDANT:** Yes.

24                  **THE COURT:** And I can impose a fine on either  
25 count up to \$250,000, right?

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1           **THE DEFENDANT:** Yes.

2           **THE COURT:** And if I let you withdraw your guilty  
3         plea for any reason, they can use these statements made here  
4         today against you, right?

5           **THE DEFENDANT:** I guess, yes.

6           **THE COURT:** Okay. And there is also a forfeiture,  
7         but there is nothing specific set forth in the forfeiture,  
8         right?

9           **THE DEFENDANT:** Right.

10          **THE COURT:** And if I accept this agreement and we  
11         go forward, any other charges against you are dismissed,  
12         right?

13          **THE DEFENDANT:** Yes.

14          **THE COURT:** And if we don't exceed what the  
15         agreement says, you have no right to appeal, right?

16          **THE DEFENDANT:** Right.

17          **THE COURT:** And if it should turn out that your  
18         criminal history is different than that which you have all  
19         agreed upon, I can go higher, right, but you can't get out  
20         of it?

21          **THE DEFENDANT:** Go higher than what, 30?

22          **THE COURT:** Yeah. I don't know how I can go  
23         higher because I think that -- but there is that provision,  
24         is there not?

25          **MR. LEIBSON:** There is. It's a standard

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1 provision, but it's essentially moot.

2 **THE COURT:** What? You agreed that his criminal  
3 history is 2?

4 **MR. LEIBSON:** Yes.

5 **THE COURT:** Okay.

6 **MS. ISON:** Yes, Your Honor.

7 **THE COURT:** Okay. Have we now gone over the  
8 agreement?

9 **MS. ISON:** Yes.

10 **MR. FEINBERG:** Yes.

11 **THE COURT:** Has anyone made any promises to you  
12 other than this plea agreement to get you to plead guilty?

13 **THE DEFENDANT:** No.

14 **THE COURT:** You know I'm not obligated to accept  
15 this agreement, and if I don't, I'll tell you here in open  
16 court, in which event you can continue your plea or withdraw  
17 it, but I'm not bound by it?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Has anyone made any prediction or  
20 prophesy or promise to you as to what I'm going to do?

21 **THE DEFENDANT:** No.

22 **THE COURT:** Did you, as charged in Count 3, engage  
23 in a continuing criminal enterprise?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** What did you do?

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1           **THE DEFENDANT:** I --

2           **THE COURT:** You don't have to go into all of the  
3 details, but briefly.

4           **THE DEFENDANT:** I just, I was the leader of a few  
5 individuals that was involved in the case.

6           **THE COURT:** You were a leader of a group of people  
7 who were involved --

8           **THE DEFENDANT:** Yeah, I supervised them.

9           **THE COURT:** Supervised them. Involved in dealing  
10 in controlled substances?

11          **THE DEFENDANT:** Yes.

12          **THE COURT:** And laundering money?

13          **THE DEFENDANT:** Yes.

14          **THE COURT:** And it was an extensive operation?

15          **THE DEFENDANT:** Yes.

16          **THE COURT:** It lasted a long time?

17          **THE DEFENDANT:** Yes, sir.

18          **THE COURT:** Okay. And part of it took place here  
19 in Michigan, right?

20          **THE DEFENDANT:** Yes.

21          **THE COURT:** And you used telephones and other  
22 sorts of things, right?

23          **THE DEFENDANT:** Yeah. I didn't use no telephones,  
24 but --

25          **THE COURT:** You didn't, but others did?

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1           **THE DEFENDANT:** Yes.

2           **THE COURT:** You knew what was going on?

3           **THE DEFENDANT:** Yes.

4           **THE COURT:** And you made money on it?

5           **THE DEFENDANT:** Yes.

6           **THE COURT:** Do you have anything more, Ms. Ison,  
7 on Count 3?

8           **MR. LEIBSON:** Yes.

9           **THE COURT:** Go ahead.

10          **MR. LEIBSON:** Would the defendant admit that he  
11 supervised at least five other individuals that are named on  
12 the indictment?

13          **THE DEFENDANT:** Yes, I did.

14          **MR. LEIBSON:** And that there were at least  
15 three transactions that violated Title 21, that is, either  
16 cocaine distribution or phone counts, and that he as part of  
17 this was involved in at least three of those?

18          **THE DEFENDANT:** Yes.

19          **THE COURT:** Okay. Count 10 charges you with money  
20 laundering. Did you engage in money laundering?

21          **THE DEFENDANT:** Yes.

22          **THE COURT:** Tell me what you did.

23          **THE DEFENDANT:** I bought a couple of vehicles.

24          **THE COURT:** Well, you took drug proceeds?

25          **THE DEFENDANT:** Yes.

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1           **THE COURT:** Cash?

2           **THE DEFENDANT:** Yes.

3           **THE COURT:** And you bought things with it?

4           **THE DEFENDANT:** Yes.

5           **THE COURT:** And, by the way, both on Count 3 and  
6 Count 10 you knew this was against the law?

7           **THE DEFENDANT:** Yes.

8           **THE COURT:** Anything more?

9           **MS. ISON:** You also purchased real estate in  
10 others' names, is that correct, or others purchased real  
11 estate on your behalf?

12           **THE DEFENDANT:** Yeah, I leased real estate. I  
13 didn't purchase it. I leased it.

14           **MS. ISON:** Did others purchase real estate on your  
15 behalf?

16           **THE DEFENDANT:** Yes.

17           **MS. ISON:** And those properties were purchased  
18 with drug proceeds?

19           **THE DEFENDANT:** Yes.

20           **MS. ISON:** Okay. And you received a substantial  
21 amount of income from your involvement in this conspiracy;  
22 is that right?

23           **THE DEFENDANT:** Yes.

24           **MS. ISON:** And you were one of the principal  
25 leaders of this organization; is that right?

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1           **THE DEFENDANT:** Yes.

2           **THE COURT:** Anything more?

3           **MS. ISON:** I think that does it, Your Honor.

4           **THE COURT:** What?

5           **MS. ISON:** I think that's it.

6           **THE COURT:** Since you acknowledge you are in fact  
7 guilty as charged in Count 3 and in Count 10; since you know  
8 you have a right to trial and what the maximum punishment  
9 is; since you are voluntarily pleading guilty, I accept your  
10 plea and enter a judgment of guilty.

11           I find your plea is free and voluntary, you  
12 understand the charges and penalties, the plea agreement has  
13 been properly executed, and there is a factual basis for the  
14 pleas.

15           The clerk is ordered to enter the pleas of guilty.  
16 You now stand convicted on Counts 3 and 10. I'm going to  
17 obtain a presentence investigation report. Your lawyers  
18 will explain to you what that is. You will be expected to  
19 cooperate with the probation officer in furnishing  
20 information for the report and you will be expected to be  
21 back here for the time and date set for your sentencing. If  
22 you are in custody, I'm sure you will be. Thank you.

23           **MR. FEINBERG:** Thank you, Judge.

24           **MR. FINDLING:** Your Honor, I do want to let you  
25 know because we have talked about this before, we have

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1 talked with the government and they have talked with the  
2 U.S. Attorney's Office in the Eastern District of Texas.  
3 Immediately after the sentencing in this case our  
4 understanding is that that U.S. Attorney's Office will  
5 dismiss the federal case in the Eastern District of Texas.

6 **MS. ISON:** That is correct, Your Honor.

7 **THE COURT:** Okay. That's part of the agreement?

8 **MS. ISON:** Yes, Your Honor.

9 **MR. FEINBERG:** Thank you, Judge.

10 **THE COURT:** Thank you.

11 (Proceedings concluded at 2:17 p.m.)

12 - - -

13 C E R T I F I C A T I O N

14 I, Sheri K. Ward, official court reporter for the  
15 United States District Court, Eastern District of  
16 Michigan, Southern Division, appointed pursuant to the  
17 provisions of Title 28, United States Code, Section 753,  
18 do hereby certify that the foregoing is a correct  
19 transcript of the proceedings in the above-entitled cause  
20 on the date hereinbefore set forth.

21 I do further certify that the foregoing  
22 transcript has been prepared by me or under my direction.

23

24

Sheri Ward  
Sheri K. Ward  
Official Court Reporter

October 3, 2008  
Date Completed

25

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